



83 Broadway, 3rd floor
Newburgh, NY 12550
TEL: (845) 569-7369

Audit/Finance Committee Meeting

AGENDA

December 8, 2025

4:30 p.m.

83 Broadway 2nd floor, Law Library, Newburgh, NY

The Audit/Finance Committee will be meeting at 4:30 p.m. to review the policies below. These policies need to be reviewed and have full board approval to comply with state mandates and reporting requirements.

- Mission Statement
- Investment Policy
- Policies Governing the Use of Authority Discretionary Funds
- Procurement Policy
- Property Disposition Policy
- Property Acquisition Policy
- Recapture Policy
- Uniform Tax-Exempt Policy
- Uniform Criteria for Evaluation of Projects Policy
- Internal Control Policy
- Fee Structure of the Agency

All meetings are public and will be recorded. The recording will be posted to the IDA's web page and YouTube channel within a few days. Minutes will be made available later and posted to the IDA's web page.

<https://newburghindustrialdevelopmentagency.org/meeting-minutes/>

To submit comments and other general matters' questions for the IDA, e-mail idadirector@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC COMMENT ITEM" by 2:00 p.m., the day before the committee meeting



Mission Statement
January 1 to December 31, 2025

Mission Statement:

The mission of the City of Newburgh Industrial Development Agency is to help attract and contribute to: Newburgh's job opportunities, a diverse and net positive tax base to provide long term economic prosperity and sustainability, and advance the general welfare and standard of living for the city and its residents through the promotion, development, encouragement and assistance of commercial, technology, tourism initiatives, recreational facilities, warehousing, manufacturing and industrial facilities, utilizing Green practices and adaptive re-use where available.



DEPOSIT AND INVESTMENT POLICY

SECTION 1. PURPOSE AND AUTHORITY. (A) Agency Funds. The purpose of this Deposit and Investment Policy (the “Policy”) is to implement Section 858-a(3) of Title One of Article 18-A of the General Municipal Law (the “Act”), which provides that the provisions of Sections 10 and 11 of the General Municipal Law shall be applicable to deposits and investments made by City of Newburgh Industrial Development Agency (the “Agency”) of funds for the use and account of the Agency (“Agency Funds”).

(B) Non-Agency Funds. The provisions of this Policy shall not apply to funds derived from the sale of bonds, notes or other obligations issued to fund a particular project for the benefit of a particular applicant, or any other funds of the Agency which are not Agency Funds.

SECTION 2. DEPOSITS OF AGENCY FUNDS. (A) Designation of Depositories. The Agency shall by resolution or resolutions of the members of the Agency designate one or more banks or trust companies (each, a “Depository”) for the deposit of Agency Funds received by the treasurer or any other officer of the Agency authorized by law or the by-laws of the Agency to make deposits. Such resolution or resolutions shall specify the maximum amount that may be kept on deposit at any time in each Depository. Such designations and amounts may be changed at any time by a further resolution of the members of the Agency.

(B) Security. All Agency Funds in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereinafter amended shall be secured in accordance with the provisions of Section 10(3) of the General Municipal Law. Generally, Section 10(3) of the General Municipal Law provides that Agency Funds may be secured by (1) a pledge of “eligible securities” (as defined in Section 10(1) of the General Municipal Law), together with a security agreement and custodial agreement meeting the requirements of Section 10(3)(a) of the General Municipal Law, or (2) an “eligible surety bond” or an “eligible letter of credit” (as such quoted terms are defined in Section 10(1) of the General Municipal Law) securing 100% of such Agency Funds.

SECTION 3. INVESTMENTS OF AGENCY FUNDS. (A) Investment Policy. It is the general policy of the Agency that Agency Funds not required for immediate expenditure shall be invested as described in subsection (C) below. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

(B) Designation of Investment Officers. The treasurer and any other officer or employee of the Agency so authorized by the by-laws of the Agency or by resolution of the members of the Agency (each, an “Investment Officer”) are authorized to temporarily invest Agency Funds not required for immediate expenditure. Any designation of an Investment Officer made by resolutions of the members of the Agency may be changed at any time by a further resolution of the members of the Agency.

(C) Types of Investments. Except as otherwise provided by resolution of the members of the Agency, an Investment Officer may invest Agency Funds in any obligation described in Section 11(2) and Section 11(3) of the General Municipal Law. Generally, Sections 11(2) and 11(3) of the General Municipal Law permit the following types of investments:

- (1) special time deposits in, or certificates of deposit issued by, any bank or trust company located and authorized to do business in the State of New York, provided that such deposit account or certificate of deposit is secured in the same manner as is provided for securing deposits of Agency Funds by Section 10(3) of the General Municipal Law;
- (2) obligations of, or obligations where the payment of principal and interest are guaranteed by, the United States of America;
- (3) obligations of the State of New York; and
- (4) with the approval of the State Comptroller, tax anticipation notes and revenue anticipation notes issued by any municipality or school district or district corporation organized under the laws of the State of New York.

(D) Custodians. The Agency may, by resolution of the members of the Agency, authorize the Investment Officers to turn over the physical safekeeping and evidences of the investments made pursuant to subsection (C) of this Section (“Agency Investments”) to any entity authorized pursuant to Section 11(4) of the General Municipal Law to act as a custodian of Agency Investments, but only upon compliance with the requirements of Section 11(4) of the General Municipal Law. Generally, Section 11(4) of the General Municipal Law allows the following types of entities to act as custodians of Agency Investments:

- (1) any bank or trust company incorporated in the State of New York;
- (2) any national bank located in the State of New York; and
- (3) any private banker duly authorized by the New York State Superintendent of Banks to engage in business in New York State which maintains a permanent capital of not less than one million dollars in New York State.

(E) Commingling. Any Agency Funds invested pursuant to this Section may be commingled for investment purposes upon compliance with the requirements of Section 11(6)

of the General Municipal Law. Generally, Section 11(6) of the General Municipal Law allows commingling of Agency Investments so long as (1) such investment is payable or redeemable at the option of the Agency within such time as the proceeds are needed by the Agency, (2) the separate identity of such funds are maintained at all times, and (3) income received on such commingled monies is credited on a pro rata basis to the fund or account from which the monies were invested.

(F) Proper Records. The treasurer of the Agency shall maintain (or cause the Investment Officers to maintain) a proper record of all books, notes, securities or other evidences of indebtedness held by or for the Agency for purposes of investment. Such record shall at least (where applicable) (1) identify the security, (2) the fund for which held, (3) the place where kept, (4) the date of sale or other disposition, and (5) the amount received from such sale or other disposition.

SECTION 4. INTERNAL CONTROLS. (A) Periodic Reviews. To the maximum extent possible, the Executive Director of the Agency shall prepare and submit to the members of the Agency at each regular meeting of the Agency (but not more often than monthly), a summary showing the amount of Agency Funds on deposit in each Depository and the general nature of the investment of such Agency Funds.

(B) Annual Report. Within thirty (30) days of the end of each fiscal year, the Executive Director of the Agency shall prepare and submit to the members of the Agency an annual investment report (the "Annual Investment Report") showing the deposits and investments of Agency Funds as of the beginning of such fiscal year, a summary of the changes in such amounts during such fiscal year, a summary of the earnings thereon during such fiscal year, and the balance thereof as of the end of such fiscal year.

(C) Annual Audit. The Annual Investment Report shall be audited by the Agency's independent certified public accountant as part of the Agency's annual general audit required pursuant to Section 859 of the Act.

(D) Annual Review. The members of the Agency shall review the Annual Investment Report and the annual audit and this Part and shall make any amendments to this Part necessary to achieve the purposes of this Part.



Policies Governing the Use of Authority Discretionary Funds

Provisions: Section 2824(1)(b) of Public Authorities Law requires directors to understand, review, and monitor the implementation of fundamental financial and management controls and the operating decisions of the agency.

Objectives: Boards of Directors and agency management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority. The fiduciary duty of the board includes adopting policies that safeguard the assets and resources of the authority and protect against the use of funds for purposes that do not advance its core purpose and objectives. It is particularly important for the board to develop a policy on the proper use of authority discretionary funds that clarifies for all employees what would and would not be considered appropriate expenditures.

Recommended Practice: Public authorities are governed by statute. In its legal opinion #2007-F4, the Office of the Attorney General determined that the expenditure of authority funds must relate directly to an enumerated power, duty, or purpose of the agency. The funds of an agency may not be spent in support of the private or personal interests or to the benefit of directors, management, or staff. Accordingly, the Authorities Budget Office recommends that all state and local authorities adopt written policies that specifically delineate the proper use of an agency's discretionary funds. This policy should address not only what constitutes a proper discretionary expenditure related to the mission and public purpose of the agency, but also address what would be considered an improper use of those funds.

The agency's Internal Control Policy provides parameters for management of permitted out-of-town business travel and travel-related expenses that are appropriate to advance the mission of an agency such as guidance as to reasonable amounts for such expenses and require that employees perform due diligence to obtain the lowest cost.

- Require prior approval of or authorization by an appropriate individual to ensure that such travel is reasonable and necessary.
- Require documentation to justify the nature and purpose of such expenses.
- Require the employee to provide receipts for expenses and provide dollar thresholds for what will be considered reasonable, including per diems, government lodging rates where available, and amounts for meals and other incidental expenses.

- Certain meal costs incurred through participation in, or sponsorship of, activities integral to meeting the core public purpose of the agency.
- Appropriate travel expenses and eligible meal costs must be properly documented and reasonable cost thresholds established.
- No credit cards will be issued for officers or staff.

The following provide parameters of expenses for which the board will not give approval.

- Food, beverages, and other refreshments purchased for the personal use of directors, management, or other employees, or by persons with whom the authority conducts business (unless prior authorization is received);
- Flowers and gifts for staff, directors, or family members;
- Subsidized or free use of agency services for the personal use of current or former board members, staff, or family members of staff;
- Celebrations for special occasions that do not directly relate to the purpose of the agency, such as catering or decorations for summer picnics, office parties, holiday or retirement parties;
- Charitable contributions or sponsorships of events not associated with the agency's mission;
- Purchases of alcohol or tobacco products;
- Membership dues in professional organizations on behalf of employees;
- Renewal of professional licenses for staff, except for Notary License for an Assistant Secretary;
- Personal use of agency vehicles, unless properly documented for tax purposes;
- Costs to purchase or mail holiday cards, invitations, or expressions of sympathy to staff or families of authority staff; or
- Assignment of cell phones or vehicles to non-agency staff.

Further, absent specific statutory power, the City of Newburgh Industrial Development Agency may not use public funds to purchase items considered personal expenses or that are intended to personally benefit an employee or director. Expenses such as those listed above do not advance a public purpose and should be considered personal in nature.



Procurement Policy

A. Preamble

1. Scope – In accordance with Section 2824 of the Public Authorities Law and Sections 858-a and 104-b of the General Municipal Law (the “GML”), the City of Newburgh Industrial Development Agency (the “agency”) is required to adopt procurement policies which will apply to the procurement of goods and services paid for by the agency for its own use and account. Purchases made for the benefit of a third party and for which payment is to be made from funds provided by such third party (or by another third party) shall not be subject to the requirements of this Procurement Policy.

While the agency is not obligated pursuant to the GML to require competitive bidding on its contracts, the agency finds that its policy is advanced by requiring public bidding under certain circumstances.

2. Purpose – Pursuant to Section 104-b of the GML, the primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of the City of Newburgh (the “city”), to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud, and corruption.

B. Procurement Policy

1. Determination required — Prior to commencing any procurement of goods and services, the Chairman, or the Executive Director or an authorized designee, shall prepare a written statement setting forth the basis for (1) any determination made that competitive bidding is not required for such procurement, and if applicable (2) any determination made that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the Executive Director or an authorized designee in a specially designated procurement file.

2. Procedure for determining whether procurements are subject to competitive bidding – the procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:

a. The Chairman or the Executive Director or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based on Section 103 of the GML, which requires competitive bidding for expenditures by a political subdivision of (1) more than \$35,000 for the performance of any public works contract (services, labor or construction), and (2) more than \$20,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).

b. The Chairman or the Executive Director or such authorized designee shall review the purchase request against prior years' expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will exceed the above. If so, competitive bidding procedures shall be followed for said expenditure.

c. The Chairman or the Executive Director or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Agency's Counsel.

3. Procedures to be used where competitive bidding is required — Where the Chairman or the Executive Director or such authorized designee shall have determined that competitive bidding is required pursuant to paragraph 2 above, then the procedures set forth in Section 103 of the GML shall be followed in respect of such procurement.

4. Methods of competition to be used for non-bid procurements and procurements exempt by statute — Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations, or any other method of procurement which furthers the purposes of this section except for items excepted herein (see 7 below) or procurements made pursuant to:

- a. GML, Section 103 (3) (through city contracts), or
- b. GML, Section 104 (through state contracts), or
- c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
- d. Correction Law, Section 186 (articles manufactured in correctional institutions).

5. Procedures for the Purchase of Commodities, Equipment or Goods under \$10,000.

- a. Up to \$500 The discretion of the Chairman or the Executive Director or authorized designee.
- b. \$501 - \$3,000 Documented verbal quotations from at least three vendors.
- c. \$3,001 - \$10,000 Written/fax quotations from at least three vendors.

6. Procedures for the purchase of public works or services under \$20,000.
 - a. Up to \$1000 The discretion of the Chairman or the Executive Director or authorized designee.
 - b. \$1,001 - \$5,000 Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$20,000 Written/fax quotations from at least three vendors.

7. Basis for the awarding of contracts – Contracts will be awarded to the lowest responsible vendor who meets the specifications.

8. Circumstances justifying an award to other than the lowest-cost quoted.
 - a. Delivery requirements
 - b. Quality requirements
 - c. Past vendor performance
 - d. The unavailability of three or more vendors who are able to quote on a procurement.
 - e. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.

9. Documentation
 - a. For each purchase made the Chairman or the Executive Director or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.

 - b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the Chairman or the Executive Director or such authorized designee, and filed with the purchase order or contract therefore.

 - c. For those items not subject to competitive bidding such as professional services, emergencies, purchases under city contracts, or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:
 - (1) a description of the facts giving rise to the emergency and that they meet the statutory criteria;
 - (2) a description of the professional services;
 - (3) written verification of city contracts;
 - (4) opinions of Counsel, if any

(5) a description of sole source items and how such determinations were made.

d. Whenever an award is made to other than the lowest quote the reasons for doing so shall be set forth in writing and maintained in the procurement file.

e. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

10. Exceptions to bidding and alternative methods of competition

a. Emergency Situation — An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare, or property of the municipality or of its citizens. With approval by the Chairman or the Executive Director, such emergency shall not be subject to competitive bidding or the alternative procedures stated above.

b. Resolution waiving bidding requirements — The agency may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.

c. Sole source — Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered, and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.

d. True Lease — Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.

e. Insurance — All insurance policies shall be procured in accordance with the following procedures:

(1) Premium less than \$10,000 — documented telephone quotations from at least three agents (if available).

(2) Premium greater than or equal to \$10,000 — written quotations/fax or proposals from at least three agents (if available).

f. Professional and creative services — This category includes services which require special education and/or training, license to practice, or are creative in nature. It is the intent of the agency that this category be co-extensive with the category of services which are exempt from the requirements of competitive bidding under Section 103 of the GML. Examples of professional and creative services are: (i) legal counseling and representation (including general and bond counsel); (ii) medical services; (iii) engineering and architectural services; (iv) lobbying, legislative and intergovernmental relations advice and representation; (v) public relations services; (vi) marketing and promotional services (including real estate brokerage). Professional services agreements are not required to be awarded to the lowest responsible bidder, but rather the agency may base its determination upon a review of such information as the agency shall deem appropriate. All contracts for professional services shall be awarded by resolution of the agency based upon a consideration of cost, experience, expertise, reputation, location, and suitability for the needs of the agency, in accordance with the following procedures:

(1) For any procurement specified in this subsection f, the Chairman or the Executive Director shall solicit quotations, statements or other information regarding their experience, qualifications, and capability to perform the proposed services from no fewer than three firms or persons customarily performing such services. If the procurement is expected to cost \$20,000 or more, such quotations, statements or information shall be in writing; and if more

than \$75,000, a request for qualifications or a request for proposals shall be issued and qualification statements or proposals shall be received. The Chairman or the Executive Director shall recommend in writing to the members of the agency approval of a contract with the person or firm whose quotation or proposal is determined by such procuring officer to be the most advantageous to the agency.

(2) If oral quotations or statements are obtained, the procuring officer shall record the names and addresses of all persons and firms from whom quotations or statements were sought, the names of the individuals and firms submitting quotations or statements, and the date and a summary of each quotation or statement.

g. Marketing — Contracts for marketing, promotional advertising and sponsorship of charitable and civic events shall not be subject to the requirements of competitive bidding or the alternative methods of competition set forth above, provided that the agency shall determine by resolution that such contract is in furtherance of the purposes of the agency.

11. Minority and women business enterprises — The agency shall comply with all applicable legal requirements relating to the hiring of such businesses.

C. Alternate Procurement by City

1. Notwithstanding the procedures set forth in Section B above, any purchase by the agency of city public works or services, or of commodities, equipment or goods, for the use or benefit of the agency, pursuant to a written agreement between the city and the agency for the provision of goods and services by the city to the agency, shall be deemed to be in compliance with the Procurement Policy of the agency, provided that such purchase is made by the city in compliance with law and with the Procurement Policy of the city as if such purchase were made for the city's own benefit or account.

2. The agency hereby adopts and incorporates by reference the Procurement Policy of the city as may be amended from time to time as applicable to any purchase by the city of public works or services, or of commodities, equipment or goods, for the use or benefit of the agency, pursuant to a written agreement between the city and the agency for the provision of goods and services by the city to the agency.

D. General Provisions

1. Input from members of the agency — Comments concerning the procurement policy shall be solicited from the members of the agency from time to time.

2. Annual Review — the agency shall annually review its procurement policies and procedures.

3. Unintentional Failure to Comply — The unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the agency or any officer thereof.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT
AGENCY

PROPERTY ACQUISITION POLICY

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this Property Acquisition Policy (the "Policy") is to establish written policies and procedures applicable to the acquisition of real property by the City of Newburgh Industrial Development Agency (the "Agency").

SECTION 2. DEFINITIONS.

(A) "Acquire" or "acquisition" shall mean acquisition of title or any other beneficial interest in real or personal property by the Agency in accordance with the applicable provisions of Article 18-A of the New York State General Municipal Law, but shall not include the acquisition of any interest in property to secure a loan or other financial obligation of another party.

(B) "Contracting Officer" shall mean the Executive Director of the Agency, or such other officer or employee of the Agency who shall be appointed by resolution of the members of the Agency to be responsible for the acquisition of property by the Agency.

(C) "Property" shall mean (1) personal property in excess of five thousand dollars (\$5,000.00) in value, and (2) real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

SECTION 3. DUTIES.

(A) Inventory Controls. The Agency shall maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control.

(B) Property List. The Agency shall prepare, not less frequently than annually, a report listing all real property owned by the Agency. Such report shall consist of a list and full description of all real and personal property acquired during such period. The report shall contain the price paid by the Agency and the name of the seller for all such real property acquired by the Agency during such period.

SECTION 4. ACQUISITION OF PROPERTY.

(A) Supervision and Direction. Except as otherwise provided herein, the Contracting Officer shall have supervision and direction over the acquisition of real property of the Agency. The Agency shall have the right to acquire its real property for any valid corporate purpose.

(B) Appraisal Report. An independent appraiser shall be hired to provide an opinion of fair market value before the Agency shall make an offer with respect to the acquisition of the real property. The appraiser should have a professional affiliation with a national appraisal organization and must not have an interest in the property (or be retained as an agent to sell the property). The appraisal report shall be in form and substance satisfactory to the Agency and shall be included in the record of the transaction.

Notwithstanding the foregoing, the preparation of an appraisal report shall not be required where the Agency is acquiring the real property pursuant to a donation, or if the valuation of the real property is

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uncomplicated in the reasonable judgment of the Agency and the fair market value is determined to be less than \$10,000.

SECTION 5. METHOD OF ACQUISITION.

(A) Voluntary Acquisition: Unless otherwise permitted by applicable law or this Policy, the Agency shall acquire real property for not more than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the acquisition of title or other interest in real property and take such other action as it deems necessary or proper to acquire such real property under the provisions of this Policy. Provided, however, the Agency may acquire real property for more than its fair market value, as described in an appraisal report reviewed by the Agency, upon a finding by the Agency pursuant to a resolution of the members of the Agency that the acquisition of such real property at such price is necessary for the Agency to (1) further its corporate purpose or (2) avoid the expense and delay of condemnation.

(B) Condemnation: Unless otherwise prohibited by applicable law, the Agency may acquire property by condemnation pursuant to the applicable provisions of New York law. The Agency shall initiate any condemnation proceedings by resolution of the Agency and such resolution shall include findings and determinations made by the Agency in connection with the decision by the Agency to initiate such condemnation proceeding. Such findings and determinations may include the following: that the owner of the property has not responded to a reasonable offer for the acquisition of the property, that the Agency has negotiated for a reasonable amount of time with the owner of the property, and that the property is necessary to further the corporate purposes of the Agency.

SECTION 6. VALIDITY OF DEED, BILL OF SALE, LEASE, OR OTHER INSTRUMENT. A deed, bill of sale, lease, or other instrument executed by or on behalf of the seller of the property and accepted by the Agency, purporting to transfer title or any other interest in the property of the seller to the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of this Policy and all applicable law insofar as concerns title or other interest of any bona fide grantor or transferor who has received valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

SECTION 7. INSURANCE. The Agency will ensure that all insurable real and personal property under its control is insured against physical loss or damage.



Property Disposition Policy

In keeping with the policy of maintaining the highest standards of conduct and ethics and to operate in the most accountable and open manner, the City of Newburgh Industrial Development Agency (the “Agency”) will maintain adequate inventory controls and accountability systems for all property (as such term is defined below) under its control. Furthermore, the Agency will dispose (as such term is defined below) of property in compliance with any applicable law, rule, or regulation (as such term is defined below). Failure to follow the provisions of this Property Disposition Policy will result in disciplinary action including possible termination of employment, dismissal from one’s board or agent duties, and possible civil or criminal prosecution if warranted.

Definitions

Act means Article 18-A of the General Municipal law of the State.

Board shall mean the board members of the Agency.

Budget Director shall mean the Director of the Division of Budget of the State.

Commissioner shall mean the Commissioner of General Services of the State.

Comptroller shall mean the State Comptroller.

Contracting Officer shall mean the Executive Director/Chief Executive Officer.

Dispose, Disposed or Disposal shall mean the transfer of title or any other beneficial interest in personal or real property in accordance with Section 2897 of the New York Public Authorities Law.

Law, Rule, or Regulation: Any duly enacted statute, or ordinance, or any rule or regulation promulgated pursuant to any federal, state, or local statute or ordinance.

Legislature shall mean the State Legislature.

Property shall mean (a) personal property in excess of five thousand dollars (\$5,000.00) in value, (b) real property, and (c) any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. Notwithstanding the foregoing, property shall include only such property in which the Agency shall have a beneficial interest, and only to the extent of such beneficial interest; and property shall not include property in which the Agency holds legal title solely for the purpose of extending financial assistance to the beneficiary

of a project under the New York State Industrial Development Agency Act (General Municipal §§ 850 et seq.), as amended (the “Act”), and which the Agency is required to convey or re-convey to such beneficiary upon the termination of such project under the terms and conditions of the project agreements between the Agency and the beneficiary.

State shall mean the State of New York.

Operative Policy

Inventory Controls and Accountability Systems

The Contracting Officer of the Agency shall be responsible for the Agency’s compliance with this Property Disposition Policy and the supervision and control of all property disposed of by the Agency. In addition, the Contracting Officer shall have the responsibility to insure the Agency operates in compliance with Title 5-A of the New York Public Authorities Law, including creating and maintaining adequate inventory controls and accountability systems for all property under the control of the Agency and periodically inventorying such property to determine which, if any, property should be disposed by the Agency. The Contracting Officer shall recommend to the board any property he or she deems suitable for disposal.

Disposition of Property

Unless otherwise authorized by this policy, the Agency shall dispose of property for not less than fair market value (“FMV”) by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such terms and conditions as the Contracting Officer deems proper. Provided, however, that no disposition of real property, any interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

Unless otherwise authorized by this policy, prior to disposing of property or entering into a contract for the disposal of property, the Agency shall publicly advertise for bids for such disposal or contract for disposal. The advertisement for bids shall be made at such a time prior to the disposal or contract for disposal, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property. Such advertisement shall include the date, time and place the bids will be publicly disclosed by the Agency. The Agency shall award the contract with reasonable promptness to the most responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to New York State (the “State”), price and other factors considered; provided, however, that the Agency reserves the right to reject all such bids when it is in the public interest to do so.

The Agency may dispose of property or enter into contracts for the disposal of property via negotiation or public auction without regard to the two (2) paragraphs immediately above, but subject to obtaining such competition as is feasible under the circumstances, if: the personal property involved is of a nature and quantity which, if disposed of under the first two (2) paragraphs of this section, would adversely affect the state or local market for such

property, and the estimated FMV of such property and other satisfactory terms of the disposal can be obtained by negotiation;

- (i) the FMV of the property does not exceed fifteen thousand dollars (\$15,000.00);
- (ii) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- (iii) the disposal is to the state or any political subdivision of the state, or to a public benefit corporation of the state (including, without limitation, an Industrial Development Agency created pursuant to the Act), and the estimated FMV of the property and other satisfactory terms of the disposal are obtained by negotiation;
- (iv) the disposal is for an amount less than the estimated FMV of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the state or a political subdivision of the state, including but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, and the purpose and terms of the disposal are documented in writing and approved by resolution of the Board; or
- (v) such disposal or related action is otherwise authorized by law.

Notwithstanding any provision of this Policy to the contrary, the Agency may transfer title to owned real property to the State or any political subdivision, including the City of Newburgh, in accordance with the provisions of the Public Authorities and the General Municipal Laws of the State under the following circumstances:

- The real property was historically owned by the State or any political subdivision, including the City of Newburgh; and
- Title to the real property was transferred to the Agency as part of a project receiving financial assistance in the form of bond financing under the Act; and
- The financial assistance provided to the project by the Agency (i) has been fully repaid, and/or (ii) the conditions of such project have been fully satisfied, and/or (iii) the project has been abandoned by the company or entity receiving such financial assistance and/or (iv) the termination of any financing structure has resulted in title to the real property reverting to the Agency; and
- The Agency has received a written request from the State or any political subdivision, including the City of Newburgh, to transfer title to the real property upon conclusion of the project for municipal purposes; and
- The transfer of the real property will be “as is” and pursuant to a contract negotiation by the parties which requires that the transferee will own and use the real property for government or public purposes.

The Agency shall file an explanatory statement with the Comptroller, the Budget Director, the Commissioner, and the Legislature not less than ninety (90) days before the Agency disposes the property if the property is personal property in excess of \$15,000, or real property that has a fair market value in excess of \$100,000. When the property is disposed by lease (or exchange), then the Agency shall file an explanatory statement when the property is real property leased for a term of five (5) years or less with an estimated fair annual rent exceeding one-hundred thousand dollars (\$100,000.00) in any given year; real property leased for a term greater than five (5) years with an estimated fair annual rent exceeding one-hundred thousand dollars (\$100,000.00) for the entire lease term; or any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

Reporting Requirements

Annual Report - The Agency shall publish, at least annually, an Annual Report (the "Annual Report") listing all property consisting of real property of the Agency. In addition, the Annual Report shall include a list and full description of all property consisting of real and personal property disposed of during such period covered by the Annual Report. The Annual Report shall include the price received by the Agency for the property, in addition to the name of the purchaser for all such property sold by the Agency during such period covered by the Annual Report.

The Agency shall deliver copies of the Annual Report with the Comptroller, the Budget Director, the Commissioner, and the Legislature, and to the extent practicable, post such Annual Report on its website.

This Policy – The Agency shall review and approve this Property Disposition Policy annually by resolution of the Board at its annual meeting. On or before March 31 of each year, the Agency shall file with the Comptroller a copy of its then-current Property Disposition Policy, including the name of the Contracting Officer appointed by the Agency. Upon such filing with the Comptroller, the Agency shall post its Property Disposition Policy on its website.



Recapture Policy and Procedures

Purpose:

To establish a procedure and policy to be compliant with the new enabling legislation, established by the NYS Office of the Comptroller, that would establish Material Factors which would be used to determine if a company which is receiving financial assistance is meeting the obligations required and stated in the approval and project agreements, and if not, to establish a process to review and determine if a reduction, termination and/or recapture of financial assistance is required.

Material Factors:

The agency, for each project seeking financial assistance, will establish Material Factors which are to be defined and stated in the approving board resolution and project agreements. This includes the agency's required Material Factors, which will be explicit and measurable and may include items such as investment, job creation, retention, or other factors as determined by the board. Material Factors may vary by project type or specific application. Each project approved by the board will have identified material factors, which will be measured and evaluated to determine if a project receiving financial assistance has met and or continues to meet the required obligations as set by the board at the time of project approval.

For certain numerical Material Factors such as job creation, investment amount, etc., it is recommended that the board set an acceptable achievement factor, which would constitute compliance with the Material Factor requirement, not less than 85% of job creation or retention goals. For non-numeric factors, each board should determine how the project will be evaluated to demonstrate that it has met the Material Factor requirement.

The Board may consider a number of evaluative criteria when determining whether to approve a project for financial assistance; however, a Material Factor shall differ from Evaluative Criteria in that it should be directly measurable and will be utilized to determine whether a project has met its requirements under the conditions of project approval and project agreement.

Material Factor Monitoring:

The agency shall develop a reporting/monitoring system to determine whether the Material Factors have been met or are being met over the term of the financial assistance, such as the duration of the PILOT agreement. Some Material Factors may be required and complied with over the term of the financial assistance—i.e. jobs—others may be a one-time check—i.e. project investment. For Material Factors that are multi-year, the agency will monitor for compliance on at least an annual basis, and for the full term of the financial assistance period. Upon project approval, the Board should be explicit in its project approvals, the Material Factors upon which the project will be evaluated, the measurable criteria, and the term for which each factor will be monitored.

Monitoring reports may be provided directly by the project applicant, from staff, field visits, or through various other methods as determined by the Board. Monitoring efforts should be documented in writing to verify compliance with Material Factor requirements.

Monitoring and compliance reports should be presented to the Board of Directors on an annual basis. If it is determined that a project receiving financial assistance has not met or maintained compliance with a Material Factor, term, or condition of the project agreement, or any other condition as set by the board, the Agency shall develop a procedure to resolve non-compliance issues, or may undertake termination, reduction, or recapture efforts.

Non-Compliance Process:

If a company is found to be in violation or non-compliant with a Material Factor during the course of the compliance period, the agency shall have a written procedure to determine if an action by its Board is necessary.

If, during the annual monitoring and or reporting period, it is found that a company which is receiving financial assistance (which shall be defined as Sales, PILOT or Mortgage Recording Tax incentives), is non-compliant or in violation, the agency shall undertake the following:

1. The agency shall notify the company in writing that in the agency's determination they are or have violated a Material Factor.
2. The company shall be given an opportunity to remedy the violation.
3. The agency shall seek additional information/explanation from the company as to why a Material Factor was not achieved. These may include economic or natural factors that led to the default. These factors should be discussed and predetermined to the extent possible by the Board and may include items such as, natural disaster, industry dynamics, unfair competition, or economic events that were outside the control of the company.
4. The company shall be provided the opportunity to present before the Board or designated committee, any information as outlined in #3 above regarding why the Material Factor was not achieved.

Board Actions:

Actions regarding taking no action to recapture benefits, reduction, termination, or recapture of financial assistance should be made by the Board. The following options are recommended as considerations for actions when considering Material Factor compliance or violations of terms and conditions of project agreements.

1. Upon a review of the facts regarding a non-compliance determination, the Board may determine that the cause of the non-compliance was a valid reason for not meeting the Material Factor and may consider the matter closed without further action, or set a specific time period to give an opportunity for the company to achieve compliance. This may also be accompanied by a period of increased reporting (i.e. review violated Material Factor(s) quarterly until remedied).
2. If a company is ultimately unable to meet a Material Factor or is in continued violation of the terms and conditions as set forth in the project agreement, the Board shall develop procedures and policies which will define when it will take actions regarding reduction, termination, or recapture of financial assistance. Below are listed several best practice options that may be undertaken.

Reduction of Financial Assistance: At the discretion of the Board, it may consider a reduction in assistance as an appropriate action to take in the event of a Material Factor or project agreement non-compliance. The reduction may be set at the sole discretion of the Board, or may be based on a pro-rata basis, depending on the extent of the Material Factor non-compliance. As an example, a project may have met three (3) out of four (4) Material Factors and the board could consider a 25% reduction in PILOT scheduled abatements, or a project may have only met 80% of a specific Material Factor, i.e. job creation or investment, and a 20% reduction in assistance may be considered. This same pro-rata concept may be applied to Material Factors which are multi-year and are enforced over the term of a PILOT, i.e. project met job retention goals for 8 of 10 years, etc.

Termination of Financial Assistance: In addition to the typical reasons why a Board may act to terminate financial assistance such as, closure, change of use, change of ownership, etc., a Board may elect to terminate any ongoing financial assistance to a company. Reasons for termination should be explicit and may include continued non-compliance with a Material Factor, continued violation of the terms and conditions of the Project Agreement, failure to comply with ongoing reporting or compliance requirements of the agency, and an action by the Board to recapture financial assistance shall be accompanied by a termination of ongoing financial assistance.

Recapture of Financial Assistance: The Board may take action to recapture a portion or all of the financial assistance provided to a company. Actions to recapture shall be made by decision of the Board and shall be reserved for continued and/or severe violations of Material Factors or the terms and conditions of the Project Agreement. An event leading to recapture

may include an applicant knowingly providing false information on an application or a compliance/monitoring report; the Board finds that the company did not make a good faith effort or have any intention of meeting a Material Factor or a term and condition of the Project Agreement; the company ceases operations and/or relocates prior to fulfilling the length of term for a Material Factor: or the company demonstrates a wanton disregard for state and or local laws or regulations.

In the event the agency is successful in receiving recaptured financial assistance, such funds shall be returned to the appropriate affected taxing jurisdictions, unless otherwise agreed upon by the local taxing jurisdiction.

**CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT
AGENCY**

**POLICY RESPECTING UNIFORM CRITERIA FOR THE
EVALUATION OF PROJECTS**

SECTION 1. PURPOSE AND JUSTIFICATION. (A) The purpose of this Policy is to provide the uniform criteria to be utilized by City of Newburgh Industrial Development Agency (the “Agency”) to evaluate and select projects from each category of eligible projects for which the Agency can provide financial assistance.

(B) The Agency was created pursuant to Article 18-A of the General Municipal Law and Title 1 of Article 18-A the General Municipal Law (collectively, the “Act”) for the purpose of promoting employment opportunities for, and the general prosperity and economic welfare of, residents of the City of Newburgh, New York (the “City”) and the State of New York (the “State”). Under the Act, the Agency was created in order to advance the job opportunities, health, general prosperity, and economic welfare of the residents of the City and of the State.

(C) Chapter 563 of the Laws of 2015, effective June 15, 2016 (the “Reform Legislation”), requires each industrial development agency to adopt an assessment of all material information included in connection with an application for financial assistance, as necessary to afford a reasonable basis for the decision by an industrial development agency to provide financial assistance for a project.

SECTION 2. ELIGIBLE PROJECT CATEGORIES. The Agency may provide financial assistance to any “project,” as defined in Section 854 of the Act.

SECTION 3. UNIFORM CRITERIA. (A) The following general uniform criteria will apply to all categories of eligible projects: (1) Extent to which a project will create or retain jobs; (2) Estimated value of tax exemptions; (3) Amount of private sector investment; (4) Likelihood of project being accomplished in a timely fashion; (5) Extent of new revenue provided to local taxing jurisdictions; (6) Any additional public benefits; and (7) Local labor construction jobs

(B) The following additional criteria may apply to warehousing and research projects: (1) wage rates (above median for City); (2) in City purchases (% of purchases from local vendors); (3) supports local businesses or clusters; (4) retention or flight risk; and (5) provides capacity to meet City demand or shortage.

(C) The following additional criteria may apply to commercial projects: (1) regional wealth creation (% of sales/customers outside of the City); (2) located in a highly distressed census tract; (3) alignment with local planning and development efforts; (4) promotes walkable community areas; (5) elimination or reduction in blight; (6) proximity/support of regional tourism attractions/facilities; (7) local or City official support; (8) building or site has historic designation; and (9) provides brownfield remediation.

SECTION 4: REMOVAL OR ABANDONMENT. If the proposed project involves the removal or abandonment of a facility or plant within the state, the Agency will notify the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

SECTION 5. EFFECTIVE DATE. This policy shall be effective with respect to any project undertaken by the Agency after the date of approval of this Policy.

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Internal Control Policy

I. GENERAL

- The Board of Directors is responsible for authorizing all bank accounts and check-signing activity for the City of Newburgh Industrial Development Agency (“Agency”).
- Financial institutions where agency accounts are maintained are notified on an annual basis of any changes in check signatories, following the transition of officers or changes in staff with check-signing responsibilities.
- Quarterly budget reports shall be presented to the Board of Directors for review on a monthly basis.
- An annual financial report, as required by laws governing industrial development agencies, will be undertaken by a qualified outside auditor.
- If the agency receives grants, applicable financial and administrative guidelines relating to specific grant funding shall be followed.
- The Treasurer must provide a Treasurer’s report at each monthly board meeting outlining the cash receipts, disbursements, and balances of all bank accounts.

II. CASH RECEIPTS

- It is not the policy of the agency to authorize any receipt of cash.
- If cash is received, the cash must be deposited immediately, within 24 to 48 hours, upon receipt by an authorized person.
- Records of cash received must be totaled and initialized by authorized employees.
- Incoming checks must be restrictively endorsed, “for deposit only” with the organization’s account number, scanned, filed, and then deposited.
- Bank deposit receipts must be compared to the original bank deposit slips, and scanned for distribution to the Treasurer and the Chief Financial Officer.
- Adequate physical controls must be maintained over receipts from the time of receipt to deposit in the bank.

III. CASH DISBURSEMENTS

A. Voucher and Authorization

- The Director must review and approve all vouchers for all disbursements and then be forwarded to the comptroller for preparation to the Treasurer and Agency.

- Supporting documentation (voucher with original signature and invoice with copy of contract) must accompany checks when presented for signature.

B. Checks

- All disbursements must be made by check.
- Only pre-numbered checks shall be used and always in sequence.
- Signing of blank checks is strictly prohibited. Checks must be made payable to specific payees based upon appropriate documentation and never to “cash” or “bearer.”
- Prior to preparing checks, vendor invoices shall be reviewed for accuracy by the Chief Financial Officer or person responsible. Checks must be prepared from vendor invoices only and not from a vendor statement.
- Signature stamps are never to be used to sign checks.

Two signatures are required for all checks, including any of two of the following signatures: Treasurer, Secretary, any Board Member, and Executive Director of the agency. In months in which no meeting is held, payment of less than \$3,000 of dated bills, office supplies and staff vendor invoices may be executed with the signatures of two of the following: Chair, Treasurer, Secretary, or any bank signator. Any disbursements made will be reported to the Board Members in the following monthly Treasurer’s Report.

- Access to blank checks must be limited to the Treasurer, Secretary, Chief Financial Officer, or Executive Director, or to such persons authorized by the Board of Directors to prepare checks. Blank check stock must be locked in a secure place when not in use.
- Any voided/spoiled checks must be marked “Void” and retained in a secure place.

C. Bank Reconciliations

- Bank accounts must be reconciled by the Chief Financial Officer or person responsible on a monthly basis and reviewed by the Treasurer
- The Executive Director or the secretary to the Director must receive the bank statements, including canceled checks if provided. The statements are then placed in a file for the Chief Financial Officer. All check numbers must be accounted for.
- Checks outstanding over 90 days must be periodically investigated, with payment stopped and an entry made restoring such items to cash if appropriate.

IV. CREDIT CARDS

The issuance of credit cards to staff or board members is not permitted.

V. REIMBURSABLE PURCHASES, TRAVEL, AND EXPENSES

- Purchase(s) of office supplies by staff is permitted in amounts of less than \$250.00. Reimbursements are approved by the Executive Director or Treasurer.
- The Board must approve registration and travel expenses for conferences and workshops prior to attendance by an agency staff member or Board member.
- Mileage for travel is estimated from the agency's place of business to the location of the workshop, conference, or meeting.
- Employees and board members must submit a detailed expense record within 30 days of expenses, with supporting documentation, in order to be reimbursed for expenses.
- Expense record must be initialed for approval of payment by the Executive Director or Treasurer prior to payment.

Hotel Stays and Allowable Travel Expenses are:

Mileage reimbursement per mile as determined by IRS mileage allowances.

When booking a hotel, a governmental rate must be requested and an ST-129 form (New York State and Local Sales and Use Tax Certificate) must be presented to vendor for sales and use tax abatement. (See NYS Office of the Comptroller guidelines on travel.)

- Conference fees including room and board are permitted.
- When conference fees do not include meals, the permitted reimbursement for meals, excluding alcoholic beverages, are:
 - Breakfast: \$12.
 - Lunch: \$16.
 - Dinner \$32.

VI. Rent and Annual Receivables

The Chief Financial Officer will establish and maintain a receivable record of annual and monthly payments due the agency arising from lease agreements, PILOTS, rents, and fees etc.

Note: Additional controls on the use of Agency funds are contained in Policies Governing the Use of Authority Discretionary Funds

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Uniform Tax Exempt Policy (UTEP)

Adopted: [DATE]

Any qualified applicant that receives any financial assistance from the Agency will have signed an acknowledgement that their application and any attachments, will be made public on the IDA's web site pursuant to the State's Freedom of Information Law.

SECTION 1 – Mission and Overview

1A. City of Newburgh Industrial Development Agency Mission

The mission of the City of Newburgh Industrial Development Agency is to help attract and contribute to: Newburgh's job opportunities, a diverse and net positive tax base to provide long term economic prosperity and sustainability, and advance the general welfare and standard of living for the city and its residents through the promotion, development, encouragement, and assistance of industrial, manufacturing, warehousing, commercial, technology, tourism initiatives, and recreational facilities, utilizing Green practices and adaptive re-use where available.

1B. Statutes Authorizing IDAs and UTEPs

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the City of Newburgh Industrial Development Agency ("agency") may provide financial assistance to qualified applicants for qualified projects in the form of issuance of its tax-exempt or taxable bonds or by participation in straight-lease transactions. The Agency has adopted this Uniform Tax Exempt Policy to provide guidelines for the claiming of real property, sales and use tax, and mortgage recording tax abatements (collectively, "Financial Assistance").

1C. Policy

The policy of the Agency is to grant applicants requested Financial Assistance as described below. The Agency may, as part of its standard policy, grant enhanced benefits on a case-by-case basis, after following the process for deviation as outlined below, for projects expected to have a significant economic impact on the City, as determined by the Agency's members. The Agency acknowledges that previous models of development (e.g. heavy manufacturing projects) may no longer be likely in the City, but the Agency can assist in achieving other development goals such as commercial, retail, and adaptive reuse projects, among others, which might be a better fit for the City's modern economic, land use, and zoning landscape as a diverse urban community.

The goal of this UTEP is to support and assist in the implementation of projects that have been reviewed by the City's boards and committees. Any project receiving consideration for Financial Assistance must assist in the growth of our region to strengthen the local economy and provide opportunities for all City residents.

1D. Program Objectives

The purpose of the Agency is to serve as an economic development tool—often in conjunction with other financing and economic development programs—to provide support to projects for industrial, commercial, research, qualified retail, educational, health-related, tourism, cultural and other businesses, including

movie production businesses, in order to offer economic incentives to City of Newburgh businesses. It furthermore seeks to stimulate desirable and diverse economic development in the City in order to create and retain quality employment opportunities and to strengthen the local tax base for long term sustainability. Its support consists of serving as a vehicle for medium and long term financial assistance for capital projects through the issuance of tax exemptions, abatements and bonds as outlined below. Eligible costs include: acquisition, construction, expansion, rehabilitation, and purchase of furniture, fixtures, and equipment required to fully equip the proposed project.

1E. Financial Assistance

IDAs provide four basic forms of financial assistance (collectively, “Financial Assistance”) through tax incentives to qualified applicants in order to promote the economic welfare, prosperity and recreational opportunities for residents of the municipality:

1. Mortgage recording tax exemption;
2. Sales and use tax exemption (as related to the construction of a Project);
3. Real property tax reduction via a payment-in-lieu-of-taxes (“PILOT”) phased in to full assessment over the duration of the Project term; and
4. Lower interest rates for debt incurred as part of a manufacturing project via the issuance of Industrial Revenue Bonds (IRBs).

All four instruments will be evaluated to assist the Agency in optimizing the incentive package not solely for the applicant, but also for the City (e.g., sales tax exemption may be less costly than a PILOT; mortgage recording tax exemption may be less costly to City than other incentives but still offer value to an applicant).

SECTION 2 – Standard Incentive Program for Commercial Development

2A. Eligible Project Types

The Agency will consider only applications for projects consistent with statutory authorization, and this UTEP, and which are aligned with the following minimum standards:

- Industrial
 - Minimum job creation of 10 FTEs.
 - Exclusion: Drop/ship warehousing is not eligible.
- Commercial
 - Research & Development
 - Qualified Retail
 - Requirement: Must comply with an IDA retail exemption under New York State General Municipal Law
 - Movie production and related facilities
 - Exclusion: Commercial housing is not eligible. However, applicants can seek financial assistance for eligible commercial components of mixed-use projects.

The Agency will not consider applications for any housing projects (i.e., low-income housing, workforce housing, or market-rate housing) except with respect to the commercial portion of mixed-used projects as referenced above.

2B. Priority Sectors

- Cannabis-related businesses
- Cultural resources and amenities that promote and/or provide access to the arts, culture, or history
- Tourism destinations and lodging
 - Requirement: Must comply with an IDA retail exemption under New York State General Municipal Law
 - Requirement: Only lodging that is subject to occupancy tax is eligible

2C. Priority Project Outcomes

- Adaptive reuse of vacant or underutilized buildings
- Direct (on site) job creation equal to or greater than 50 FTEs within 3 years of construction completion
- Direct (on site) job creation equal to or greater than 25 FTEs within 3 years of construction completion IF at least 75% of the jobs created pay a living wage for an Orange County household that includes two working adults and one child, as calculated by the MIT Living Wage Calculator (<https://livingwage.mit.edu/>) at the time of application. The MIT Living Wage Calculator is not available, the Agency board may elect to use different tool or formula.
- Anticipated net positive revenue generation - beyond property tax/PILOT revenue - in excess of \$100,000 annually by year 5 after construction completion. Such revenue could be in the form of occupancy tax, sales tax, cannabis-related taxes and fees, or any other tax or fee that would benefit the affected taxing jurisdictions.

2D. Standard Incentive Program Criteria

In making the discretionary decision to provide any Financial Assistance, the Agency will first consider the following criteria to determine if the requirements of the standard incentive program have been met:

1. An assessment by the Agency of all material information included in connection with the Agency's Uniform Application for Financial Assistance, as necessary to afford a reasonable basis for the decision by the Agency to provide financial assistance for the Project.
2. A written cost-benefit analysis by the Agency that assesses and identifies the extent of the following factors related to the Project:
 - a. the creation and retention of permanent, private sector jobs (primary and secondary);
 - b. the estimated value of any tax exemptions to be provided;
 - c. the amount of private sector investment generated or likely to be generated by the proposed Project;
 - d. the likelihood of accomplishing the proposed Project in a timely fashion;
 - e. an estimated value of any other benefits that the City or other public entities may be providing;
 - f. additional sources of NET Positive revenue to the affected taxing jurisdictions; and
 - g. any other public benefits that might occur as a result of the Project.
3. Whether Financial Assistance is required to induce the Project and "but for" such assistance, the Project could not move forward, or a statement from the applicant as to why the Agency should provide Financial Assistance.
4. The impact of the proposed Project on existing and proposed businesses and economic development projects in the vicinity, including the extent to which the project provides additional childcare services in the community.
5. The effect of the proposed Project on the environment.

6. The impact of the proposed Project on municipal services, including, but not limited to, addition of school age children, transportation, police, emergency medical or fire services, DPW, etc.
7. The financial feasibility of the Project.
8. Public support for, or opposition to, the proposed Project.

2E. Additional Project Evaluation Considerations

In addition to the Standard Incentive Program Criteria stated above, the Agency will consider the following variables when evaluating qualified projects:

- Fulfillment of a need within or contribution to a surrounding neighborhood, community and/or existing uses/structures
- Historic appropriateness
- Incorporation of green practices
- Adaptive Reuse -
 - Architectural significance
 - History in the community and age of the building
 - Barriers to development
 - Amount of time the building has been vacant, underutilized, or underperforming on the tax rolls
 - Whether reuse of the building will involve environmental remediation costs
- Financial and long-term health/sustainability of the Project.

2F. General Financial Information Necessary to Apply

- Composition of applicant's current real estate portfolio at the time of pre-application (including type of project and number of square feet or units owned and/or managed).
- Applicant's recent history in obtaining financing commitments for real estate development projects, detailing type of project, financing source and amounts committed.
- Bank references for the applicant and financial equity partner.
- Financial statements for the past three (3) years prior to the time of pre-application from the applicant and each participating principal, partner, or co-venturer that includes the value of assets each participant would contribute to the applicant and verifications that such assets are available. The financial statement may also include any additional information that will be useful in evaluating the applicant's financial reliability and past ability to finance projects. (If audited financial statements are not available, please provide certified financial statements. All statements, audited or certified, should be in accordance with generally accepted accounting principles consistently applied).
- For applicant and its development team, a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts.
- A statement describing the expected equity requirements and sources, the anticipated sources of working capital, and the anticipated sources for financing the project, including its construction.

2G. Underwriting & Independent Verification

Applicants shall be required to provide documentation such as bank commitment letters to show financial stability and real estate appraisals for expert and independent opinions.

SECTION 3 – Financial Assistance Tools

3A. Mortgage Recording Tax Exemption

State law provides that mortgages recorded by the Agency are exempt from mortgage recording taxes imposed pursuant to Article 11 of the Tax Law. The Agency has a general policy of abating mortgage recording taxes for Applicants under the following circumstance:

1. Initial financing from the Agency with respect to which Agency issues debt secured by a mortgage upon real property;
2. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing of the Agency immediately upon the completion of the Project, the Agency's general policy is to abate the mortgage recording tax on both the construction financing and the permanent financing.
3. Refinancing of prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid.

3A1. Non-Agency Financings — With respect to straight lease or installment sale transactions where the Project occupant needs to borrow money for purposes relating the Project, and the lender will not make the loan to the Project occupant without obtaining a fee mortgage as security, the policy of the Agency is to consent to the granting of such mortgage and to join in such mortgage, so long as the following conditions are met:

1. The documents relating to such proposed mortgage make it clear that the Agency is not liable on the debt, and that any liability of the Agency on the mortgage is limited to the Agency's interest in the Project;
2. The granting of the mortgage is permitted under any existing documents relating to the Project, and any necessary consents relating thereto have been obtained by the Project occupant; and
3. Payment of the Agency fee relating to the total Project cost.
4. Reverter if default (see “Recapture” Section 6)

3A2. Exemption Affidavit — The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto.

3A3. PILOT Payments — If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a “non-exempt mortgage”) then the applicant and/or Project occupant shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the “normal mortgage tax”). Such mortgage recording taxes are payable to the County Clerk, who shall in turn distribute same in accordance with law.

If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such non-exempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT payment equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in accordance with Section 874(3) of the Act.

3B. Sales and Use Tax Exemption

State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into, or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law.

The Agency has a general policy of abating sales taxes applicable only to the initial acquisition, construction, reconstruction and/or equipping of each Project with respect to which the Agency grants financial assistance.

3B1. General — The Agency has no requirement for imposing a payment-in-lieu-of-tax arising from the exemption of a Project from sales and/or use taxes applicable to the initial acquisition, construction and/or equipping of such Project, except

In the circumstance where (a) a Project is offered sales tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the Project) occur by a certain date, and (b) such event does not occur, in which case the Agency may require that the Applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance.

3B2. Period of Exemption — Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:

1. **General** — Unless otherwise determined by the Agency, the tax exemption for sales and use taxes shall be for the Tax Exemption Period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to the Project, or the execution and delivery by the Agency of a lease agreement relating to such Project, and ending on the date of completion of the Project.
2. **Early Commencement** — The Tax Exemption Period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's bonds, notes or evidences of other debt relating to the Project or the execution and delivery by the Agency of a lease agreement relating to the Project, provided that:
 - (a) The Agency has complied with the requirements of Section 859-of the Act,
 - (b) The Agency thereafter adopts a resolution determining to commence such period earlier,
 - (c) The Applicant or Project occupant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and
 - (d) The Chairman or Executive Director of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.
3. **Normal Termination** — The Tax Exemption Period will normally end upon the completion of the Project. On construction Projects, the Agency and the Applicant shall agree on the estimated date of completion of the Project, and the sales and use tax exemption shall cease on the earlier of
 - (a) The actual date of completion of the Project, or

(b) The date which is six (6) months after the estimated date of completion of such Project. On non-construction Projects, the Agency and Applicant shall agree on the estimated date of completion of the Project, and the sales and use tax exemption shall cease on the earlier of

(i) The actual date of completion of the Project, or

(ii) The date which is three (3) months after the estimated date of completion of the Project.

If the Agency and the Applicant shall fail to agree on a date for completion of the Project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

4. Later Termination — The Agency, for good cause shown, may adopt a resolution extending the period for completion of the Project and/or extending the Tax Exemption Period.
5. Items Exempted — The sales and use tax exemption granted by the Agency shall normally extend only to the following items acquired during the Tax Exemption Period described in subsection (B) above:
 - a. Items incorporated into the real property;
 - b. The rental of tools and other items necessary for the construction and/or equipping of the Project, if rented as by Applicant as agent of the Agency;
 - c. Tangible personal property, including furniture, furnishings and equipment used to initially equip the Project or otherwise forming part of the Project, if purchased by Applicant as agent of the Agency; and
 - d. Office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the Project, if purchased by Applicant as agent of the Agency.

3B3. Items Not Exempted — A sales and use tax exemption with respect to an Applicant shall not be granted for the following:

1. Purchases occurring beyond the tax exemption period described in subsection (B) above;
2. Repairs, replacements or renovations of the Project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate Project in the manner contemplated by the Act; or
3. Operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate Project in the manner contemplated by the Act.

3B4. Percentage of Exemption — Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the Project were not exempt by reason of the Agency's involvement in the Project. If an exemption of less than one hundred percent (100%) is determined by the Agency for any reason, such as in the case of a single project which contains both permitted and non-permitted IDA abated uses, creating a percentage of IDA "Exemption", then the Applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the Affected Tax Jurisdictions in accordance with Section 874(3) of the Act.

3B5. Appointment as Agency Agent — The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the appointment of the Project owner (the "Owner") as Agency agent, with the authority to purchase Project-related property and services using the

Agency's sales tax exemption. The Agency must file Form ST-60 with the New York State Department of Tax and Finance within 30 days after the appointment.

The Owner must notify the Agency of each sub-agent appointment, so the Agency can sign the required Form ST-60 for the sub-agent. Contractors and subcontractors who have not been appointed Agency agent or sub-agent cannot use the sales tax exemption for equipment rentals, tools, supplies, and other items that do not become part of the finished project. All Project contractors and subcontractors must be appointed as agent or subagent of the Agency in order to use the sales tax exemption for Project-related purchases. Owners and other properly appointed Agency agents and sub-agents claim the sales tax exemption for all purchases by giving their vendors Form ST-123. All bills, invoices and other documents for Project-related purchases by Agency agents and sub-agents should specifically indicate the purchase is made as agent of the Agency (i.e., name of purchaser is "ABC Company, as agent of the Schenectady County IDA").

3B6. Required Filings — The New York State Department of Taxation and Finance requires that all Agency agents and sub-agents Owner file Form ST-340 with the Department and the Agency on or before the last day of February each year. The ST-340 reports the amount of Agency sales tax exemptions claimed for the prior calendar year. The Owner's agreements with its contractors and subcontractors should require the contractors and subcontractors to provide the annual information regarding the amount of sales tax exemptions claimed.

3C. Real Property Tax Abatement

In New York State, property owners pay a real property tax based on the assessed value of the land and of the improvements to a site. Any real property owned or controlled by an IDA is not subject to ad valorem real property taxes. However, real property owned or controlled by an IDA continues to be subject to special assessments and user fees. When an IDA takes title to or a leasehold interest in real property, the property becomes 100% exempt from ad valorem real property taxes. To accommodate the needs of the local taxing jurisdictions, however, the Agency generally negotiates a Payment-In-Lieu-Of-Tax Agreement ("PILOT Agreement") with the applicant, sometimes taking into consideration the percentage of exemption exception above. Each Project receiving an abatement will be subject to a PILOT Agreement in a form acceptable to the Agency. The Agency will then direct, or receive and forward, these payments-in-lieu-of-taxes ("PILOT") to the affected taxing jurisdictions.

IDAs generally limit the period an exemption is in effect so as to provide the minimum amount of certainty and stability needed for a project to become self-sustaining, at which point the project will become part of the full tax paying rolls for the benefit of the municipalities' economic sustainability, per the IDA's mission. It is not the purpose of a PILOT to provide long term exemption from the reality of the municipality's tax needs. In all cases, the project's PILOT term results in a net increase in the project site's contribution to the municipalities' revenue.

The Agency may require the establishment of a PILOT mortgage ("PILOT Mortgage") as a condition in order to secure the position of the PILOT payments versus other secured and unsecured claims. The purpose of a PILOT Mortgage is to secure unpaid PILOT payments with a lien against the real estate, thus making the PILOT Agreement a secured obligation. The Agency may negotiate alternative forms of collateral to insure payments, such as reverters (see "Recapture" section), under the PILOT Agreement.

3C1. Terms

1. **Period of Exemption:** Unless otherwise approved by the Agency, the period of exemption available is ten (10) years for eligible commercial projects or fifteen (15) years for projects within Priority Sectors and/or having Priority Project Outcomes as outlined in Section 2.
2. **Level of Exemption:** In each year during the period of exemption, the project will make payments equal to the full property taxes due on the “base assessment” of the property prior to project-related improvements, plus an abated amount of the property taxes on the improvement value of the project in alignment with the percentages in the PILOT Schedule Table below. The “base assessment” of the property is determined based upon the assessed value at the time that the application is submitted to the Agency.
3. **Construction Term:** The period of exemption shall begin after a Construction Term of up to three (3) years, to be determined by the Agency based on the construction timeline provided in the application. During the Construction Term, the project will pay an amount equal to the amount of full property taxes on the “base assessment”.
4. **PILOT Schedule Table:**

PILOT Schedule Table

Year	Standard Project	Priority Sector or Outcome
Construction (up to 3 years)	0%	0%
1	100%	100%
2	90%	100%
3	80%	90%
4	70%	90%
5	60%	90%
6	50%	80%
7	40%	80%
8	30%	80%
9	20%	70%
10	10%	60%
11		50%
12		40%
13		30%
14		20%
15		10%

The Agency’s basic policy provides for a graduated schedule of abatement applicable to County, City and School ad valorem real property taxes. The Agency will consider project factors when determining the amounts to be paid under the PILOT Agreement but in no event will the payments under the PILOT Agreement be less in amount than the aggregate County, City and School taxes owed immediately prior to entering into the PILOT Agreement. The Agency reserves the right in its sole discretion to refuse to grant any abatement of County, City and School taxes and to require payments under the PILOT Agreement equal to one hundred percent (100%) of the amount that would otherwise be due and payable for County, City and School taxes.

As noted above, the PILOT Agreement does not provide any exemptions for special district taxes or other fees that may be levied on tax bills. The Agency reserves the right to deviate from this structure as provided by the statute and as laid forth below in Section 5.

SECTION 4 - TRANSFERS OF PAYMENT-IN-LIEU-OF-TAX (“PILOT”) AGREEMENTS

The Agency may consider the assignment of a PILOT upon the submission of a complete application of the new applicant and a new public hearing being held.

SECTION 5 - PILOT DISCOUNT (“DEVIATION”)

5A. PILOT Discount (“Deviations”)

The Agency may, in accordance with this Section 5 and Section 874 of the IDA Act, deviate from the standard policy with respect to the number of years for a PILOT and its amount on a case-by-case basis to provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviation from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction. The Agency considers the following factors in making such determination, no single one of which is determinative:

1. The nature of the proposed project (e.g., manufacturing, commercial, civic);
2. The nature of the property before the project begins (e.g., vacant land, vacant buildings, brownfield);
3. The economic condition of the area at the time of the application;
4. The extent to which a project will create or retain permanent, private-sector jobs;
5. The estimated value of tax exemptions to be provided;
6. The impact of the project and the proposed tax exemptions on affected tax jurisdictions;
7. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity;
8. The impact of the proposed project on municipal services, including, but not limited to, the addition of school age children, transportation, police, emergency medical or fire services, DPW;
9. The amount of private sector investment generated or likely to be generated by the proposed project;
10. The likelihood of accomplishing the proposed project in a timely fashion;
11. The effect of the proposed project upon the environment;
12. The development, redevelopment, betterment, and more complete use of existing "downtown", underdeveloped land, historic district, and blighted areas;
13. The type of development- Retail, office, manufacturing, commercial, Transit Oriented Development or any development providing the highest and best use for positive tax ratables;
14. The creation of tourism or cultural destinations;
15. Development that includes Adaptive Re-use/Infill/Revitalization of vacant or underutilized properties;
16. Development of architecturally and historically significant properties;
17. The extent to which the proposed project will provide additional sources of NET Positive revenue for municipalities and school districts in which the project is located;
18. The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located;
19. The extent to which the project will utilize to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures

Any deviations from the Agency’s standard policy will be made only with the specific approval of its members based on the factors listed in this Section 5 and those, if any, described in Section 874 of the

IDA Act. The Agency will set forth in writing its reasons for approving any deviation and will notify the affected taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

5B. Cost-Benefit Analysis

In the event of a proposed increase in the amount or terms of its financial assistance, the Agency will review and conduct its own cost-benefit analysis to determine the need for any such deviation and total PILOT value, which shall include:

- Financial documentation including a comparison of the Project’s performance under the standard abatements described in the “PILOT Schedule Table” vs. proposed abatement;
- An explanation of the financial assumptions used in the analysis;
- Operational budget vs. capital cost of project;
- Additional documentation relating to whether “but for” such assistance, the Project could not move forward; and
- Public infrastructure costs and impacts (e.g., school district).

SECTION 6 – RECAPTURE OF BENEFITS GUIDELINES

The Agency, for each project seeking financial assistance, will require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency’s involvement. Events that the Agency may determine will trigger recapture may include, but shall not be limited to, the following:

6A. Recapture Trigger Events

1. Sale or closure of facility;
2. Departure of the business or organization from the City;
3. Significant change in use of facility;
4. Significant employment reduction;
5. Significant change in business activities of project applicant or operator; or
6. Material non-compliance with or breach of terms of Agency transaction documents.
7. Failure to respond to Agency inquiries concerning payments of principal and interest;
8. Failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;
9. Failure to respond to Agency inquiries regarding payment of monies in lieu of taxes, insurance premiums;
10. Failure to comply with annual reporting requirements or provide the Agency with the requested information;
11. Failure to respond to Agency inquiries or failure to provide the Agency with any information or documents requested by the Agency in order to provide any federal, state or local Agency with information or reports required under any applicable law, rule or regulation;
12. Failure to provide any other information concerning the project or the project application or any project operator requested by the Agency.
13. Material noncompliance with or breach of terms and conditions of Agency transaction documents or breach of any zoning, land use or federal, state or local environmental laws or regulations, material obligations by the project occupant to the United States, New York State, any of its political subdivisions, the affected taxing jurisdictions in which obligations were imposed in connection with the Project;

14. Any reduction in taxes to the City or significant increase / deviation from projected net impact on city services in any given year, if any, that any such projected revenues and/or economic benefits are set forth in the PILOT Agreement or other Agency transaction documents;
15. Ceasing to be an eligible “project” under and as defined in the IDA Act;

Upon the occurrence of any of the events listed in this Section 6, the Agency will, upon at least ten (10) calendar days written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by the Agency. Within thirty (30) calendar days after the hearing, the Agency will issue a determination whether to terminate any ongoing financial assistance to a project applicant and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency’s involvement.

DRAFT



83 Broadway, Newburgh, NY 12550
idadirector@cityofnewburgh-ny.gov
TEL: (845) 569-7369

2025 FEE STRUCTURE OF THE AGENCY

PROJECT FEES

Application Fee:	\$1,000.00
Public Hearing Notification Fee:	\$ at cost
Legal Fees for preparation of project documents	\$ at cost
Annual compliance processing fee:	\$ 250

Covering the following services

- Confirmation of insurance
- Compliance with PILOT payments (if applicable)
- Sales tax exemption reporting
- Job status - # of jobs created, retained
- Bond status (if applicable)

Closing Fee(s):

Taxable/Tax Exempt Bond and Straight Lease Transactions

Sliding Scale:

- .005 of total project costs on the first \$10 million
- .00333 of total project costs in excess of \$10,000,001 to Total Remaining Project Costs

MISCELLANEOUS FEES

<u>TYPE</u>	<u>MINIMUM AMOUNT</u>
Document Processing	\$750.00 - \$1,500.00
Extension of Inducement	\$250.00
Amendments, waivers assignments, leases and subleases, etc.*	\$500.00
Consent, 2 nd Mortgages and other Financings	Set by Board on a case-by-case basis
Refinancing of Bonds*	½ of 1% of the outstanding bonds, plus the applicable Administrative Fee as scheduled above for new money
Assumption of Outstanding Bonds*	1/8 of 1% of the outstanding Bonds, plus the applicable Administrative Fee as scheduled above for new money
Termination Fee	\$500.00

* - Each transaction is reviewed for its complexity, and these fees are subject to an adjustment at the discretion of the IDA.

EXPENSES

All expenses incurred by the IDA (i.e. notices, court recorders, meeting rooms, etc.) shall be for the account of the applicant. All underwriting, trustee, legal, etc. expenses for the issuing of the bonds, notes, or straight leases shall be for the account of the applicant.